THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 7899 of 2005

DATED: 11.08.2005

Between:

P.V. Subba Reddy

… PETITIONER.

AND

The District Panchayat Officer, Nellore

& another.

… RESPONDENTS.

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ORAL ORDER:-

This writ petition has been filed by P.V. Subba Reddy with a prayer to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent – Gram Panchayat, represented by its Panchayat Secretary, Kovur Mandal, Nellore District, in not taking any action on the resolution dated 30.03.2005 to take the petitioner's marketing complex i.e., Jeetendra Marketing Complex situated at Kovur, on lease as illegal, arbitrary and unjust.

The petitioner claims that he is the owner of the Jeetendra Marketing Complex,

situated at Kovur. He obtained licence from Kovur Gram Panchayat in the year 1986 to run vegetable market in the above market yard. He has been running the vegetable market yard by renewing the said licence from time to time. While so, he made a representation on 01.03.2005 to the 2nd respondent – Gram Panchayat to cancel his licence to enable him to start new business at Jeetendra Marketing Comples, Kovur. He issued notices to all the people who are doing vegetable business in the marketing complex and demanded them to vacate the market yard. After receipt of the said notices, all the shopkeepers approached the petitioner and requested him to allow them to continue their vegetable shops for some more time. On 28.03.2005 the petitioner submitted a representation to the 2nd respondent – Gram panchayat where under he requested the 2nd respondent to run the vegetable market at Jeetendra Marketting Complex, Kovur for a period of one year from 01.04.2005 to 31.03.2005 and during the said period the 2nd respondent has to pay the rents approved by the Government for the marketing complex. The 2nd respondent accepted the above proposal under resolution dated 30.03.2005.

It is the grievance of the writ petitioner that the 2nd respondent – Gram Panchayat has not taken any further action in pursuance of the resolution dated 30.03.2005. Hence the writ petition.

Respondents 1 and 2 filed counter-affidavits. It is suffice to refer to the counter-affidavit of the 2nd respondent – Gram Panchayat. It is stated in the counter-affidavit that licence was issued to the petitioner from 1986 to 2003 and 2004 to run the private vegetable market at Jithendra Marketing Complex at Kovur. One Smt. Siva Reddy Sumathi, W/o. Chandrasekhara Reddy submitted a representation on 06.07.2004 for issuance of licence to run a private vegetable market at Jithendra Marketing Complex basing on the agreement of sale executed by the petitioner and the same has been considered by the 2nd respondent and a licence to run a private market at Jithendra complex was issued in favour of Smt. Siva Reddy Sumathi vide proceedings Roc.No.6/2004, dated 18.03.2004. The petitioner in his representation dated 09.011.2004 has informed that he was permitted to run a Private Market at Jithendra Marketing Complex of Kovur Gram Panchayat up to the year 2003-2004

and he paid all the amounts due to the Gram Panchayat up to 2003-2004. The petitioner did not submit any representation before expiry of the lease period i.e., 31.03.2004 as envisaged in G.O.Ms.No.58 PR, dated 18.02.2000. Therefore, licence was issued to Smt. Siva Reddy Sumathi for the period of 2004-2005 taking into consideration her application based on the agreement executed by the petitioner in her favour. On 25.02.2005 Smt. Siva Reddy Sumathi has submitted a representation seeking renewal of licence for the year 2005-2006. She further stated to the 2nd respondent – Gram Panchayat that she filed O.S.No.1 of 2005 on the file of the District Court, Nellore against the petitioner basing on the agreement of sale. While so, the petitioner in his letter, dated 01.03.2005 has informed that he proposed to vacate the present vendors, who are running vegetables and fruits business, from the Jithendra Market Complex by 01.04.2005 and requested not to renew the licence for the year 2005-2006 to enable him to run another business in the complex. He also issued notice dated 01.03.2005 to all the vendors and furnished the same to the 2nd respondent – Gram Panchayat. The petitioner submitted a representation on 29.03.2005 to the 2nd respondent with a request to renew the licence for the year 2005-2006 and to run the same under the control of the 2nd respondent as requested the vendors who are doing business for the last 14 years. The Gram Panchayat in its meeting held on 30.03.2005 in PR No.94 has considered the representation of the petitioner thoroughly and found that there is no alternative place in the Gram Panchayat area at present to establish the vegetable market, and therefore, as requested by the petitioner, the Jithendra Complex Vegetable Market should be taken into the control of the Gram Panchayat and to issue licences to the vendors and amounts so collected to be kept in separate bank account, and on completion of the year 2005-2006, and after deducting the expenses, the remaining amount has to be credited to the petitioner.

Heard the learned counsel for the petitioner and learned Government Pleader for Panchayat Raj and Rural Development appearing for the respondents.

Learned counsel for the petitioner submits that the 2nd respondent – Gram Panchayat has passed a resolution on 30.03.2005 agreeing to the amounts from the vendors and pay the same to the petitioner and therefore the 2nd respondent – Gram

Panchayat is not justified in refusing the request of the petitioner for enforcement of the resolution.

Learned Government Pleader for Panchayat Raj and Rural Development appearing for respondents submits that till the dispute between the petitioner and Smt. Siva Reddy Sumathi with regard to the title over the property is not resolved, the petitioner is not entitled to claim any amount.

As seen from the records, the petitioner is the owner of Jithendra Marketing Complex. He obtained licence to run the market for certain years. For the year 2005-2006, no one has obtained licence to run the vegetable market in the Jithendra Marketing Complex. The 2nd respondent – Gram Panchayat passed the resolution on 30.03.2005. English translation of the resolution has been placed on record. I deem it appropriate to refer to the relevant portion of the resolution and it is thus:

> "The Panchayat considered the above matter in detail and noticed the inconvenience caused to the people, and decided to take possession of the Jithendra Complex and to collect the fees in the management of the panchayat, for the year 2005-2006 till alternate site or market is available, and kept the same in the special bank account, and asked the Panchayat Secretary accordingly. It is decided to brought the matter to the notice of the Nellore District Collector (Pt.) and asked the Secretary to obtain his permission also. It is also asked him to put in the next meeting about the market fees, and others available in writing, to fix the fees for the Jithendra Market Complex. For this Sri P.V. Subba Reddy is requested to register the said complex in the name of the Kovur Gram panchayat for the year 2005-2006."

It is explicit from the abovereferred resolution that there is an obligation on the part of the petitioner to register the said complex in the name of the Kovur Gram Panchayat for the year 2005-2006. After registering the complex in the name of the Gram Panchayat, Kovur, the petitioner can ask for payment of the amount.

Keeping in view the above facts and circumstances, the writ petition is disposed of directing the writ petitioner to make an application to the 2nd respondent – Gram Panchayat for payment of the amount after registering the complex in the name of

Kovur Gram Panchayat for the year 2005-2006. If any such application is filed, the same has to be disposed of within a period of four weeks from the date its receipt.

Accordingly, the writ petition is disposed of. No order as to costs.

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B.SESHASAYANA REDDY, J

Date: 11.08.2005

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